

UTAH AIR QUALITY BOARD MEETING
October 6, 2004
MINUTES

I. Call to Order

Ernest Wessman, Board Vice Chair, called the meeting to order at 1:40 p.m.

Board members present:

Jerry Grover	Dianne Nielson	Marcelle Shoop
Scott Hirschi	Richard Olson	Jeff Utley
Jim Horrocks	Joann Seghini	Ernest Wessman
John Veranth, teleconference		
Executive Secretary: Richard W. Sprott		

II. Dates of upcoming Air Quality Board Meetings:

November 3, 2004 and December 1, 2004.

III. Approval of Minutes of September 1, 2004 Board Meeting.

Work Session: the Board held a working lunch session at 12 noon to hear a presentation by the Division staff on how to determine Best Available Control Technology. The meeting was open to the public and attended by some citizens and business representatives.

Jeff Utley moved to approve the minutes and Richard Olson seconded. The Board approved unanimously.

IV. Final Adoption: R307-214-2, Incorporation by Reference, Various Subparts of 40 CFR Part 63, National Emission Standards for Hazardous Air Pollutants (NESHAPS), MACT Standards. Presented by Eileen Brennan.

Ms. Brennan reported that staff had proposed the MACT's to the Board at the July Board meeting. The month of August was the 30-day comment period and staff did not receive any written or verbal comments during that period. Therefore, staff is recommending that the Board approve for final adoption.

JoAnn Seghini moved to approve the Final Adoption of R307-214-2, Incorporation by Reference, Various Subparts of 40 CFR Part 63, National Emission Standards for Hazardous Air Pollutants (NESHAPS), MACT Standards. Scott Hirschi seconded and the Board approved unanimously.

V. Final Adoption: Amend R307-110-12 and State Implementation Plan Section IX.C.7, the Carbon Monoxide Maintenance Plan for Salt Lake City; and Amend R307-110-33 and State Implementation Plan Section X.C, the Vehicle Emissions Inspection and Maintenance Plan for Salt Lake County. Presented by Jan Miller.

The Carbon Monoxide Maintenance Plan for Salt Lake City had been out for public comment. The only comments received were from EPA, which addressed the language regarding the motor vehicle emissions budgets. The issue was resolved. Staff recommends that the Board approve for final adoption.

The Vehicle Emissions Inspection and Maintenance Plan for Salt Lake County had received no comments from the public or EPA. Staff recommends that the Board approve for final adoption.

Jerry Grover moved to approve the Final Adoption: Amend R307-110-12 and State Implementation Plan Section IX.C.7, the Carbon Monoxide Maintenance Plan for Salt Lake City; and Amend R307-110-33 and State Implementation Plan Section X.C, the Vehicle Emissions Inspection and Maintenance Plan for Salt Lake County. JoAnn Seghini seconded and the Board approved unanimously.

VI. Proposal for Public Comment: Draft of the Natural Events Action Plan. Presented by Dave Strohm.

Mr. Strohm reviewed the Natural Events Action Plan called the NEAP. The policy states that federal, state, and local air quality agencies need to protect the public health and inform them whenever it is unhealthy due to these natural events. Reasonable measures must then be taken to safe guard the public. These events could be anything from fire, volcanic activity, wind blown dust events, etc. It requires states to put into place the Best Available Control Measures (BACM) for anthropogenic sources that could be affected by natural events. Staff has taken these guidelines and developed a natural events action plan. According to EPA procedure, this plan needs to go out for public comment, but gives no guideline as to the length of time. The NEAP is different from a SIP or a rule. It is not approved by EPA but rather accepted by EPA. DAQ is proposing an open public comment period through October 20. This would give staff time to review and prepare the plan and bring it to the Board for the November meeting. Staff would then submit the draft for the EPA deadline of November 16. This deadline will be 18 months past the first flagged violation exceedence, which was caused by high winds. He also noted that this particular plan addressed only high wind dust exceedence, because there had been a violation.

Mr. Horrocks suggested that the Board open the document and review what should be done. With the Great Salt Lake receding, there is a higher potential of violations.

Mr. McNeill replied that staff is already proactive and documenting what is being done. The division web site allows the public to sign up and be emailed when there is a warning. Address: www.airquality.gov/, click on Air home page. He also noted that the document text states what staff is doing to notify the public of high-wind events. The last part of the plan is the documentation on all of the natural events that had occurred thus far. As new events happen, then staff submits the same documentation and adds any new exceedence as an appendix. Areas such as smoke from fire would then be included as a separate section. Each section must be specific to an exceedence.

Ms. Nielson suggested that the title be more specifically referenced only to dust in the SIP. She would prefer a longer public comment period so the public can understand what the document is.

Mr. McNeill said he would talk to EPA and see what would happen for a delay past the November 16 deadline.

Mr. Hirschi asked if this action plan was intended to cover only non-attainment areas?

Mr. McNeill replied that it is only in the non-attainment areas where we have the SIPs. There are no monitoring sites outside of the Wasatch Front. Any monitors in the Wasatch front that are triggered are held underneath this plan.

Mr. Hirschi suggested that it be clarified that it is only for the non-attainment areas.

Mr. Strohm said that is easily done. Staff tried to make it as wide scoping as possible according to the air basin and the meteorological effects that occur on the whole Wasatch Front.

Mr. Wessman suggested that staff clearly define the extent of the Salt Lake City area.

Mr. Hirschi questioned the annual rainfall at the Salt Lake airport of 6 ½ inches as correct. In answer, Mr. Strohm said that it should be 16 ½" of rainfall.

Mr. Veranth mentioned the typo errors that had been left with Barbara and then passed on to Mr. Strohm.

Scott Hirschi moved to approve for public comment the Natural Events Action Plan with the modification for a 30-day comment period, provided there is no problem with EPA. Also, clearly define the Salt Lake City area, and correct the rainfall to 16.5 inches. Richard Olson seconded. Board approved unanimously.

VII. Proposal for Public Comment: Operating Permit Program Proposed fee for Fiscal year 2006. Presented by Dave Beatty.

Mr. Beatty explained that the Operating Permits Program establishes an annual emissions fee to fund the cost of the program each year. Proposed fees are for fiscal year 2006, which shows an increase due to less emissions. The fee will be included in the department fee package that will be presented during a public hearing. Staff recommends that the Board submit as part of the department fee package, \$39.94 per ton for fiscal year 2006 operating permit fee.

Ms. Seghini asked since there had been a decrease in emissions, had there been a decrease in staff also?

Mr. Beatty replied that over the last five years, five staff had been dropped. There are only five permit writers to handle the 100 permits. By cutting emissions, it didn't save staff workload.

Mr. Grover asked where the 13.15% administrative fee came from?

Ms. Nielson replied that the Federal government sets the fee. It is based on direct and indirect expenses.

Mr. Olson mentioned in the staff memo, second paragraph, fourth line up: fiscal year 2000 to reduce the actual fee charged to \$26.53/ton, or \$2.90 less than allowed by the legislature. Apparently they set minimum fees.

Ms. Nielson reported that the legislature approves the fee schedule, which this fee goes into. They approve the intent language that requires the division to rebate or reduce the fee. It is by state law that we go through that process. That is why it says, as required by the legislature. But the actual action of establishing all of the fees in DEQ is in statute, which is done in the legislative process.

Mr. Beatty said that the way the program works, if you have money left over at the end of the year, it has to be applied to the next year as a refund back to the sources. That occurred this last year. We have refunded/reduced the fee on the bill.

Mr. Wessman asked if the \$2.90 is less than what is established by the legislature?
Ms. Neilson replied yes.

Mr. Horrocks asked how many FTE's were the salaries and benefits for?
Mr. Beatty responded 34 employees, which is about one third the Division of Air Quality.

Mr. Hirschi gave his appreciation of the research the division did last year in helping the Board understand how Utah compared to other states. It showed how difficult it was to compare to other states because of the different methodology used to determine fees. This year the Board was still using the same data collected from last year. He thought it would be a good exercise to periodically every 2-3 years do research on surrounding states and make a comparison. There is no built-in natural incentive to keep the fee down. It seems there is extra pressure on the Board to try to use the mechanisms available to make comparisons to make sure the fee stays in line. One could argue that Utah is higher than surrounding states, although he didn't think that was true. But as far as the fee per ton, Utah is higher. The Board needs to be diligent in comparisons on an annual basis.

Mr. Grover stated that the legislature sets the FTE's and the Board has no control over it other than to make sure the calculation is correct.

Mr. Hirschi suggested that if the Board came back with a recommendation of less or even more, the legislature would be influenced by that recommendation. He felt the Board had a responsibility to try to make sure the fee is fair.

Richard Olson moved to approve for public comment the Operating Permit Program Proposed Fee for Fiscal year 2006. Jeff Utley seconded. The Board approved unanimously.

VIII. Informational Items

A. Resolution of Clean Harbors Request for Agency Action. Presented by Fred Nelson from the Attorney General's office.

The Board has now received a copy of the settlement of that issue. The settlement agreement was between Wasatch Clean Air Coalition (WCAC) and Clean Harbors. Neither the Division nor the Board was a party to the agreement. The Board received a letter from the Wasatch Clean Air Coalition indicating they were withdrawing their request for agency action. This is an information item, and no further action is required by the Board.

Kathy Van Dame, (WCAC), gave an overview of why there was a request for agency action. WCAC requested that the permit be withdrawn until Clean Harbors Aragonite could meet the Maximum Achievable Control Technology (MACT) emissions limits without the wet electrostatic precipitator (WESP). The MACT emissions limits are now required since this past September. Another request is that the emission analysis be redone to remove the phrase technically infeasible. One of the elements of the settlement agreement is that this finding of technically infeasible for a piece of operating equipment is not to be used as a precedent by other sources. WCAC requested that these two items be reported to the Board so there is a legal record of it. She also suggested that there be a log created of the things the executive secretary signs and made available to the public.

There were no questions or further discussion.

B. Clean Utah Launch: Presented by Renette Anderson, Department of Environmental Quality (DEQ) Public Affairs.

Ms. Anderson announced that the state had launched the Clear Air Program. The Memorandum Agreement was signed in early September. The Clean Utah Program is for business's that have a clean compliance record and who are willing to go beyond compliance and propose projects that will prevent or reduce pollution. In return, DEQ is willing to offer incentives as an agency. DEQ is currently accepting 10 applications for the first round and then will accept applications twice a year in April and October. Large companies with a number of facilities may enter them individually.

Mr. Hirschi noted that in the Utah Manufacturers Association's recent newsletter, they commented on this program in a very complimentary manner. This went out to all their members. That should help spread the word in a positive way.

C. Rules Review. Presented by Jan Miller and Mat Carlile.

Jan introduced Mat Carlilie, a new DAQ employee assigned to working on regional haze rules.

Mr. Carlile worked up a matrix to identify the requirement of the rules and when they would be reviewed.

Mr. Wessman said the schedule was helpful and thanked the staff for preparing it. The core question was, what constitutes a proper review?

Mr. Grover stated his concern of only having 30 days, which gave the Board the only option of approving it. With this table, a Board member who had certain issues could bring it before the Board ahead of time.

Ms. Nielson noted that with the pre-Board meetings, the Division could provide background on issues, and the opportunity to discuss upcoming issues more closely.

Ms. Shoop asked what the last column date represented.

Ms. Miller responded that was the date that staff had to file a form with the Division of Administrative Rules. If it was not filed by that date, the rule automatically expired. It would then have to be proposed to the Board and go through the public comment period and be adopted again.

Mr. Sprott commented that this document was intended to be an information piece so the Board can see everything out there and get a sense of what the interests are. Staff could then prepare an earlier response to the Board.

D. Compliance: No Questions

E. HAPS Compliance: No Questions

F. Monitoring: Presented by Bob Dalley

Mr. Dalley reviewed the handouts. He reported that the cool summer had kept the ozone below the standard. He also noted that the Wood Program would begin on November 1, and Choose Clean Air ended September 30, 2004.

Meeting adjourned 3 pm.